

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CITY OF LAWRENCEBURG, KENTUCKY

COMPLAINANT

v.

SOUTH ANDERSON WATER DISTRICT

DEFENDANT

CASE NO. 96-256

O R D E R

Contending that its recent lawsuit<sup>1</sup> against the City of Lawrenceburg ("Complainant") renders this matter moot, South Anderson Water District ("South Anderson") has moved for dismissal. Opposing this motion, the Complainant contends that the Defendant's lawsuit does not address the core issues raised in its complaint. Having considered the motion and the response thereto and being otherwise sufficiently advised, the Commission finds that Defendant's motion should therefore be denied.

The filing of Defendant's lawsuit does not render the present case moot. "A moot case is one which seeks a judgment on a pretended controversy, when in reality there is none, or a decision in advance about a right before it has been actually asserted and contested, or a judgment upon some matter which, when rendered, for any reason,

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<sup>1</sup> South Anderson Water District v. City of Lawrenceburg, Kentucky, No. 97-68 (E.D. Ky. filed Sept. 3, 1997).

cannot have any practical effect upon a then existing controversy." Louisville Transit Co. v. Dept. of Motor Transportation, Ky., 286 S.W.2d 536, 538 (1956). The filing of Defendant's lawsuit does not resolve any of the issues that Lawrenceburg poses in its Complaint, nor does it have any practical effect on the current Commission proceeding.

The Commission further finds that a procedural schedule should be established for this proceeding. Given the delays that have already occurred in this proceeding, no further requests for postponement will be considered absent extraordinary circumstances. Any party that has previously served discovery requests upon opposing parties should again serve such requests in accordance with the procedural schedule set forth below.

IT IS THEREFORE ORDERED that:

1. A formal hearing in this matter shall be begin on March 25, 1998, at 9:00 a.m., Eastern Standard Time, in Hearing Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky, and continue until completed.
2. Each party may, on or before December 12, 1997, serve upon any other party a request for production of documents and written interrogatories to be answered by the party served within 14 days of service.
3. Each party may, on or before January 9, 1998, serve upon any other party a supplemental request for production of documents and supplemental written interrogatories to be answered by the party served within 14 days of service.
4. Each party may, on or before February 13, 1998, take the testimony of any person by deposition upon oral examination pursuant to notice or by agreement.

5. Each party may, on or before February 13, 1998, serve upon any other party a written request for admission, for purposes of this proceeding only, of the truth of any matter relevant to this proceeding set forth in the request that relates to statements or opinions of fact or of the application of law to fact. The matter is admitted unless, within 10 days after service of the request, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection. The form of the request for admission and the answer or objection thereto shall otherwise be governed by Kentucky Civil Rule 36.

6. On or before February 27, 1998, each party shall file with the Commission in verified form the direct testimony of each witness whom it expects to call at the formal hearing.

7. On or before March 16, 1998, each party shall file with the Commission in verified form the testimony of each rebuttal witness whom it expects to call at the formal hearing.

8. Direct examination of witnesses shall be limited to the authentication and adoption of that written testimony. No summarization of written testimony by the witness shall be permitted.

9. Witnesses who have filed written direct and rebuttal testimony shall present that testimony at the same sitting. Opposing parties may cross-examine such witnesses on both direct and rebuttal testimonies.

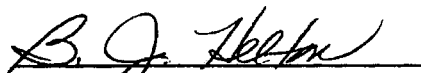
10. Any party may, within 14 days of the filing of the hearing transcript with the Commission, submit an initial written brief. Reply briefs may be submitted no later than

7 days after filing of the initial brief. Initial briefs shall not exceed 25 pages in length.

Reply briefs shall not exceed 10 pages in length.

Done at Frankfort, Kentucky, this 26th day of November, 1997.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director